National Labor Relations Board Weekly Summary



of NLRB Cases

Office of Public Affairs Washington, D.C. 20570 Tel. (202) 273-1991 Feb. 5, 2010 W-3246 CASES SUMMARIZED VISIT **WWW.NLRB.GOV** FOR FULL TEXT CSS Healthcare Services, Inc. Jonesboro, GA 2 NV Energy, Inc. Las Vegas, NV OTHER CONTENTS No Answer to Complaint Case No Answer To Complaint and Compliance Specification Case Test of Certification Case Unpublished Board Decisions and Orders in Representation Cases Uncontested Report of Regional Director and Hearing Officer Requests for Review of Regional Directors' Decisions and Directions of Elections and Orders Decisions of Administrative Law Judges

Note: McCarthy & Smith, Inc., (355 NLRB No. 6) summary, will be included in next Weekly issue.

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CSS Healthcare Services, Inc. (10-CA-37628, 355 NLRB No. 5) Jonesboro, GA, Jan. 29, 2010. The Board adopted the administrative law judge's finding that Victoria Torley is an employee under the Act, and the Respondent violated Section 8(a)(1) of the Act, by discharging Torley for engaging in protected concerted activities. The draft contains a personal footnote by Member Schaumber stating that while he agrees that the Respondent's stated reason for discharging Torley – i.e., that she failed to timely apply for funding of the Respondent's projects – he would not find the testimony of two state auditors supports a finding of pretext. Rather, Member Schaumber would instead rely on the Respondent's shifting rationale for discharging Torley as evidence of pretext. Chairman Liebman, while agreeing with the judge's rationale, would also find that the Respondent's shifting justifications supported a finding of pretext. [HTML] [PDF]

(Chairman Liebman and Member Schaumber participated.)

Charge filed by an Individual; complaint alleged violations of Section 8(a)(1). Hearing held at Atlanta, May 9-10, 2009. Adm. Law Judge Michael A. Marcionese issued his decision Sept. 29, 2009.

NV Energy, Inc. (28-CA-22476, 355 NLRB No. 7) Las Vegas, NV, Jan. 29, 2010. The Board adopted the administrative law judge's dismissal of complaint allegations that the Respondent violated Section 8(a)(1) of the Act, by denying the alleged discriminatee's rights to have a representative present at two allegedly investigatory interviews under NLRB v. J. Weingarten, 420 U.S. 251 (1971), and that the Respondent unlawfully discharged the alleged discriminatee in violation of Section 8(a)(5). The Board included a brief legal analysis of the Weingarten allegations, finding that the alleged discriminatee had no reasonable basis for believing that discipline might result from either meeting. In dismissing the unlawful discharge allegation, the Board adopted the judge's finding that the alleged discriminatee voluntarily resigned his employment. [HTML] [PDF]

(Chairman Liebman and Member Schaumber participated.)

Charge filed by an Individual; complaint alleged violations of Section 8(a)(1) and (3). Hearing at Las Vegas, Aug. 25, 2009. Adm. Law Judge Mary Miller Cracraft issued her decision Nov. 5, 2009.

NO ANSWER TO COMPLAINT

(In the following case, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the complaint.)

Smith Industrial Maintenance Corp. d/b/a Quanta (Autoworkers Local 174) (7-CA-52097; 355 NLRB No. 8) Taylor, MI Jan. 29, 2010. [HTML] [PDF]

NO ANSWER TO COMPLAINT AND COMPLIANCE SPECIFICATION

(In the following case, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the complaint and compliance specification.)

Holcomb & Hoke Mfg. Co. (Steelworkers) (25-CA-31014; 355 NLRB No. 4) Indianapolis, IN Jan. 25, 2010. [HTML] [PDF]

TEST OF CERTIFICATION

(In the following case, the Board granted the General Counsel's motion for summary judgment on the grounds that the Respondent has not raised any representation issue that is litigable in this unfair labor practice proceeding.)

Aimbridge Employee Corp. d/b/a Aloft Chicago O'Hare (UNITE HERE Local 450) (13-CA-45561; 355 NLRB No. 9) Rosemont, IL Jan. 29, 2010. [HTML] [PDF]

UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following case, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND CERTIFICATION REPRESENTATIVE

20 River Court West Urban Renewal Co., New Jersey, NJ, 22-RC-13018, Jan. 26, 2010.

(In the following cases, the Board denied the requests for review of the Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of the Regional Directors)

- Southern California Permanente Medical Group, Pasadena, CA, 21-RC-21117, et al.; Jan. 25, 2010.
- FDSI d/b/a Freeman Co., Dallas, TX, 16-RC-10877, Jan. 25, 2010 (Chairman Liebman and Member Schaumber participated.)
- AEP Industries, Inc., Chino, CA, 31-RC-08787, Jan. 28, 2010 (Chairman Liebman and Member Schaumber participated.)

Asset Protection & Security Services, LP, Corpus Christi, TX, 28-RC-06689, Jan. 28, 2010 (Chairman Liebman and Member Schaumber participated.)

DECISIONS OF ADMINISTRATIVE LAW JUDGES

Pessoa Construction Co. (Laborers of North America) Fairmont Heights, MD Jan. 26, 2010. 5-CA-34547, et al.; JD-6-10, Judge Arthur J. Amchan.

Tree of Life, Inc. (Teamsters Local 952) Los Angeles, CA Jan. 26, 2010. 21-CA-38767; JD(SF)-1-01, Judge Gerald A. Wacknov.

Dresser-Rand Co. (IUE-CWA, AFL-CIO, Local 313) Painted Post, NY Jan. 29, 2010. 3-CA-26543, et al.; JD-4-10, Judge Mark D. Rubin.
